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April 24, 2023

**VIA CERTIFIED MAIL**

Hon. Patti B. Saris  
C/O Maryellen Molly, Courtroom Clerk  
John Joseph Moakley U.S. Courthouse  
1 Courthouse Way, Suite 2300  
Boston, MA 02210

**Re: Ritrovato v. McArthur et al., C.A. 1:23-CV-10301-PBS**

Dear Judge Saris:

On behalf of TD Bank, N.A. ("TD Bank"), we submit this objection to Plaintiff Nicholas A. Ritrovato's ("Plaintiff") letter to the Court requesting the issuance of a subpoena to serve on TD Bank. *See* Dkt. #5. Plaintiff's request is premature and should be denied for two reasons.

First, Plaintiff has not yet obtained a summons to serve on TD Bank or the co-defendants in this matter. Thus, the matter is not ripe for a Rule 26(f) conference as there is no scheduling conference or order on the docket.<sup>1</sup>

Second, Plaintiff failed to provide any basis under Rule 26(d)(1) to seek discovery from TD Bank prior to the parties' conference under Rule 26(f). Discovery prior to a Rule 26(f) conference is permitted only "in a proceeding exempted from initial disclosure under Rule 26(a)(1)(B), or when authorized by these rules, by stipulation, or by court order." Fed. R. Civ. P. 26(d)(1). None of these limited exceptions apply to this case. This case is not exempted from initial disclosures. Plaintiff has not identified any rule that would authorize early discovery. TD

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<sup>1</sup> Should Plaintiff obtain and serve TD Bank with a summons, TD Bank anticipates seeking dismissal of the Complaint pursuant to Rule 12(b)(6) because Plaintiff's claims are time barred. Accordingly, TD Bank reserves all rights to seek a stay of any discovery while such motion is pending.


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Hon. Patti B. Saris  
April 24, 2023  
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Bank has not stipulated to early discovery. And, there is no court order that authorizes early discovery.

While TD Bank recognizes that Plaintiff is *pro-se*, the Rules of Civil Procedure do not support his requests for a subpoena at this stage. Respectfully, TD Bank requests that the Court deny Plaintiff's request for early discovery as premature.

Respectfully,

A handwritten signature in black ink that reads "Elizabeth Fegreus/mef". The signature is written in a cursive, flowing style.

Elizabeth Fegreus

cc: Nicholas A. Ritrovato  
Michael Zullo, Esq.

ELIZABETH FEGREUS  
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*Handwritten:*  
Patti B Saris  
4/17/23

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